

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Benjamin Hendricks,)	CASE NO. 1:13 CV 2111
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
vs.)	
)	
Brian Cook, Warden,)	<u>Memorandum of Opinion and Order</u>
)	
Respondent.)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Knepp (Doc. 13), recommending that the Court grant Respondent's Motion to Dismiss Habeas Petition (Doc. 9). For the reasons set forth below, the Report and Recommendation is ACCEPTED and the Petition is DISMISSED.

Petitioner, Benjamin Hendricks, commenced this action with the filing of a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Petitioner is incarcerated following his conviction for pandering sexually-oriented matter involving a minor. Respondent filed a Motion to Dismiss the Petition, arguing that it was time-barred. The Magistrate Judge issued his Report and Recommendation recommending that the motion be granted because the

AEDPA statute of limitations expired on October 18, 2009 and the instant Petition was not filed until September 30, 2013. No objections have been filed.

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, “The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation.” When no objections have been filed this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

Having reviewed the Report and Recommendation, the Court finds no clear error and agrees with the determinations of the Magistrate Judge. Accordingly, the Motion to Dismiss is granted and the Petition is dismissed. Further, for the reasons stated herein and in the Report and Recommendation, the Court certifies, pursuant to 28 U.S.C. § 1915(a) (3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R.App. P. 22(b).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 9/18/14